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C O N F I D E N T I A L SECTION 01 OF 03 KATHMANDU 002185

SIPDIS

DEPT FOR SA/INS  
NSC FOR GREEN  
LONDON FOR BELL

E.O. 12958: DECL: 10/05/2015

TAGS: [PHUM](#) [PGOV](#) [PTER](#) [PINS](#) [NP](#)

SUBJECT: NEPAL HUMAN RIGHTS COMMISSION CITES IMPROVEMENTS,  
DONORS REMAIN SKEPTICAL

REF: A. KATHMANDU 00641

[1](#)B. 04 KATHMANDU 01965

Classified By: Ambassador James F. Moriarty; Reasons 1.4 (b/d).

SUMMARY

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[1](#)1. (C) In a public session to review the activities of the National Human Rights Commission (NHRC) since March, NHRC Chairman N.B. Khatri and Acting Secretary Kedar Prasad Poudyal informed members of the diplomatic and donor community, including the Ambassador, that both Maoists and security forces continued to violate the fundamental rights of Nepalese people. Security forces continued to make illegal arrests and re-arrests, and the government enforced "noticeable restrictions" on peaceful assembly and on freedom of expression in the media. Although "free and unhindered access" to detainees remained a challenge, a new RNA directive requiring access by NHRC members to army facilities had allowed for visits without prior notice. Despite carping by some donors the NHRC appears to be going about its work in an independent, objective fashion. END SUMMARY.

NHRC ACTIVITIES CONTINUE

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[1](#)2. (C) At the September 28 National Human Rights Commission's (NHRC) biannual public briefing regarding the human rights situation in Nepal, Acting Secretary Kedar Prasad Poudyal and NHRC Chairman N.B. Khatri asserted that NHRC activities related to human rights promotion, legislation, protection, and child rights had continued uninterrupted since the last briefing in March (ref A). While the NHRC had faced some difficulties during the State of Emergency immediately following the royal takeover, Poudyal stressed that NHRC members were "trying (their) level best."

Field Visits and Investigations

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[1](#)3. (C) Poudyal asserted that, between February and September 2005, the NHRC had continued field visits, investigations, meetings and monitoring in fifty of Nepal's seventy-five districts. The NHRC had received a total of 4,379 complaints between August 2000 and August 2005 (3,477 to its headquarters in Kathmandu; 902 to its regional offices). To date, the NHRC had decided on 764 cases. During the same period, the number of registered complaints related to disappearances was 1,635; the status of 881 remained unknown, while the NHRC had confirmed 754 as released, detained/imprisoned, under detention, or dead. The NHRC conducted protection-related monitoring and investigation missions between February and September in fifty-two districts. Major investigations included Kapilvastu, Chidipani Palpa, Sindhupalchok, Pipaldanda, Madi (Chitwan), Kavre, Bardiya, Banbhedha, and Pili, Kalikot.

Training

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[1](#)4. (C) The NHRC had also conducted training programs and workshops in human rights, including human rights education in school curricula. Poudyal noted the NHRC had organized a regional level training program on the issue of children in armed conflict for NGOs, security and government personnel, and "child clubs" that included child victims.

Outreach

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[1](#)5. (C) The NHRC had met in Kathmandu and thirty districts with human rights NGOs, political parties, media and civil society to identify areas of cooperation and coordination, Poudyal continued. The NHRC had continued to make its presence known through the media and publications. The NHRC had disseminated information on its activities through press statements, NHRC bulletins, the NHRC website ([www.nhrcnepal.org](http://www.nhrcnepal.org)), and various publications. Poudyal stated that his organization's media outreach was working, as the public was beginning to respond to the NHRC's concerns.

The NHRC had also prepared a number of review reports and organized educational programs on laws related to witchcraft, trafficking, and security-related issues, including the controversial Terrorist and Destructive Activities (Control and Punishment) Ordinance (TADO).

#### Studies

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16. (C) Poudyal said the NHRC was in the middle of conducting two studies: one on implementing in Nepali law the International Covenant on Civil and Political Rights, and one looking at the "decisions of quasi-judicial bodies and courts" from a human rights perspective. In response to the Ambassador's query whether "quasi-judicial" included the King's Royal Commission for Corruption Control (RCCC), Poudyal stated that the study would examine whether judicial mechanisms were complying with fair trial principles.

#### Working With the Government

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17. (C) One key bone of contention the NHRC had with the government, Poudyal stated, was a lack of consultation with the NHRC before submitting reports to international bodies. Poudyal cited the government's recent submission of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) report without prior consultation with the NHRC. Poudyal admitted that a gap still remained between the government's receipt and acknowledgement of NHRC recommendations, and actual implementation.

#### "FREE AND UNHINDERED" ACCESS?

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18. (C) Poudyal informed the group that the government and Royal Nepalese Army had increased access for NHRC officials to places of detention. Most notably, the RNA had received government instruction to allow the NHRC access to barracks and places of detention. However, access to barracks and places of detention had not always been "free and unhindered," a point that several members of the donor community in the audience found worrisome. Between February and September 2005, the NHRC had undertaken a total of 216 missions "for different human rights protection-related work." Of those, the NHRC had made 135 visits to barracks and detention centers. Between February and May, the RNA, Nepal police, and armed police had "restricted" NHRC visits in twelve cases, including cases of house arrest. Since May, the NHRC had been allowed to enter all places of detention without prior notification.

#### TRENDS AND TRAITS

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19. (C) Between February and September, the NHRC had registered 164 complaints related to disappearances and abductions against the government and 50 complaints against the Maoists. In response to the Ambassador's comment that the number of complaints against the Maoists appeared low compared to what had been reported in the media, Poudyal noted that the NHRC figures captured only individual complaints and did not reflect mass abductions by the Maoists or cases that had been filed with the NHRC's regional offices.

110. (C) Arrests and re-arrests remained a major problem, Poudyal reported. The NHRC had recorded a total of 2,083 arrests related to political demonstrations between February and September. The total number of re-arrests for the same period was 61. NHRC and OHCHR monitors had witnessed re-arrests of prisoners immediately after their release. Other general trends included arrests without notice or "appropriate process," and torture in detention centers.

#### COMMENT

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11. (C) In spite of notable challenges presented by both the government and Maoist rebels, the NHRC has been able to continue its human rights monitoring and investigation activities since its last briefing to the donor and diplomatic community in March (ref A). Poudyal admitted that problems remain with government implementation of NHRC recommendations. Some donors, notably including the Danes (who stopped assistance to the NHRC following Feb. 1), remain skeptical regarding the NHRC's effectiveness; most observers, however, recognize the need for a Nepali human rights commission. When the NHRC membership was reconstituted in May, we decided to judge them by their work, in spite of the questionable process by which the Palace had appointed the new members. In an October 4 article in The Kathmandu Post, the NHRC reported several cases of disappearances and killings perpetrated by government forces, and was quoted as objecting to the use of public vehicles by security forces as well as the government housing detainees in certain barracks. In the same article, the NHRC urged the Maoists to reverse

their instruction that certain community schools close. The NHRC, as evident from their briefing and their formal reports on human rights, remains independent, active and critical of both the Maoists and security forces.

MORIARTY